

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Jerome McFadden, #136919,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 19-ALJ-04-0246-AP

Grievance No. PCI 1135-18

ORDER

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STATEMENT OF THE CASE

SC Court of Appeals

This matter is before the Administrative Law Court (ALC or Court) pursuant to the appeal of Jerome McFadden (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department). Appellant seeks review of the Department's final decision regarding the Department's withdrawal of money from his E.H. Cooper account. On December 11, 2018, Appellant filed a Step 1 grievance with the Department challenging its withdrawals of money from his E.H. Cooper account. On January 11, 2019, the Department denied his Step 1 grievance. On January 15, 2019, Appellant filed a Step 2 grievance on the same grounds. The Department denied the Step 2 grievance on March 21, 2019. This appeal followed.

ISSUES ON APPEAL

- 1) Whether amounts withdrawn by the Department from Appellant's E.H. Cooper account to satisfy Appellant's outstanding court fees exceed the balance due for the fees.
- 2) Whether money contributed to the account by family member's rather than Appellant's wages may be withdrawn by the Department to satisfy Appellant's outstanding court fees.

STANDARD OF REVIEW

The ALC hears inmate grievance appeals pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). The Al-Shabazz decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). Where an inmate is deprived by the Department of a statutory, state-created property interest, the ALC is the proper channel in which to seek review. Sullivan v. S.C. Dept. of Corrs., 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003). This matter is properly before the Court because Appellant's E.H. Cooper account

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is provided by the Department for inmate use, meaning Appellant has a state-created liberty interest in the contents of the account.

When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act. Al-Shabazz, at 377–80, 527 S.E.2d at 754–56. Consequently, the Court's review is limited to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2019). Additionally, the Court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2019). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Id. Substantial evidence is “not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached . . . .” Lark v. Bi-Lo, Inc., 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981) (citation omitted). An agency's construction of a statute that it administers will be accorded the most respectful consideration and will not be overruled absent compelling reasons. S.C. Energy Users Comm. v. S.C. Elec. & Gas, 410 S.C. 348, 353–54, 764 S.E.2d 913, 915 (2014) (citations omitted); see also Kiawah Dev. Partners, II v. S.C. Dept. of Health & Env'tl. Control, 411 S.C. 16, 33, 766 S.E.2d 707, 717 (2014).

#### DISCUSSION

Appellant had two outstanding court fees related to case numbers 13-1540 and 15-7106 in the United States Court of Appeals for the Fourth Circuit. Patricia S. Connor, the Clerk of Court for the U.S. Court of Appeals for the Fourth Circuit, issued two orders to appellant informing him that his filing fees for the two cases, \$450 and \$505 dollars respectively, would be satisfied by monthly payments made from his account pursuant to 28 U.S.C. § 1915(b). The Department made 25 monthly deductions from Appellant's E.H. Cooper account totaling \$272.05 toward case number 13-1540 and 21 monthly deductions totaling \$131.90 toward case number 15-7106. Appellant argues, without evidence, that his filing fees were fully paid. However, the evidence in

the record reflects a balance still owed to the federal Court of Appeals at the time this grievance was filed and decided. As of December 5, 2019, \$177.95 was still due for case 13-1540 and a balance due of \$373.10 remained for case 15-7106. Therefore, the Department's decision denying Appellant's grievance as to an overpayment being made on the debt is supported by the evidence in the record.

Appellant next argues the Department violated his due process rights because the relevant statute for withdrawing money from prisoner accounts to satisfy outstanding court fees only applies to prisoner wages, not money sent by loved ones. The statute at issue states:

[I]f a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, **the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account.** The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C.A. § 1915(b) (West 1996) (emphasis added).

With respect to the question of whether the Department is limited to using Appellant's wages to satisfy his filing fee, Congress did not define "income" in 28 U.S.C. § 1915(b). In construing an undefined term, "[the Court] must first attempt to construe the statute according to its plain language, and if the language of the statute is plain, unambiguous, and conveys a clear meaning, 'the rules of statutory interpretation are not needed and the court has no right to impose another meaning.'" Odom v. Town of McBee Election Comm'n, 427 S.C. 305, 310, 831 S.E.2d 429, 432 (2019) (quoting Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). The Seventh Circuit Court of Appeals addressed this issue:

"income" is a more comprehensive term than "earned income." ... Congress did not define the term "income" in § 1915(b), but it used several related terms: "income," "deposits," and "amount in the account". These seem to be used as synonyms, which implies that "income" means "all deposits". A prison therefore "shall forward" 20% of whatever sums enter a prison trust account, disregarding the source. That some receipts are gifts or bequests from family members does not shelter them from § 1915(b)(2).

Lucien v. DeTella, 141 F.3d 773, 776 (7th Cir. 1998). Thus, the court found "income" as used in the statute is synonymous with "deposits" and "amount in the account" as used elsewhere in the statute. Id. at 776. Appellant cites 42 U.S.C. § 1915(f)(2)(c) as establishing an intent that only prison wages may be used to satisfy his outstanding filing fees. However, this code section was omitted from the present code several decades ago. This Court finds "income" as used in 28 U.S.C. § 1915(b) does not exclude money gifted to Appellant's account by family members. Therefore, since the decision of the Department is in accord with valid statutory provisions dictating how the Department must handle Appellant's outstanding court filing fees, does not otherwise exceed the Department's authority, and is a reasonable action in light of the circumstances, this Court may not substitute its judgment for that of the Department with respect to its decision. Based on the evidence, Appellant's substantial rights have not been prejudiced because the Department was required by the Court of Appeals' orders and 28 U.S.C. § 1915(b) to forward money from Appellant's account to satisfy his outstanding court filing fees.

**ORDER**

**IT IS THEREFORE ORDERED** that the Department's Final Decision is **AFFIRMED**.  
**AND IT IS SO ORDERED.**



Deborah Brooks Durden, Judge  
S.C. Administrative Law Court

March 4, 2020  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

I, Robin E. Coleman, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Robin E. Coleman  
Judicial Aide to Deborah Brooks Durden

March 4, 2020  
Columbia, South Carolina

**FILED**

March 4, 2020

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